

REMARKS/ARGUMENTS

This letter is responsive to the Office Action dated July 13, 2004.

Amendments to the Claims

By this response, there are now a total of 34 claims pending for this application, which is an increase of 4 claims compared to the claims previously on file. Furthermore, there are now 7 independent claims, which is an increase of 4 independent claims compared to the claims previously on file. Accordingly, the claims fee that is due is $(4 \times 9) + (4 \times 44) = \212 .

In the Office Action, the Examiner has rejected claims 1-18 and 21-32 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-45 of U.S. Patent No. 6,644,293 (Jong). The applicant encloses a terminal disclaimer to overcome the rejection. The enclosed Terminal Disclaimer has been executed by the undersigned as the attorney of record. The government fee of \$55.00 is enclosed in our cheque no. _____. Please charge any deficiency or credit any overpayment to our deposit account no. 02-2095.

The Examiner has rejected claims 1-12 and 18 under U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In particular, the Examiner stated that in claim 1, line 8, there appears to be missing words relating to the removable connection of the cartridge. Additionally, the Examiner stated that in claim 18, there is no antecedent for the "motive means" or "base".

The applicant has amended claim 1 to specify that the loader apparatus includes a quick replacement connector for removably connecting the cartridge with respect to the paintball marker.

Claim 18 previously depended from claim 13. The applicant has amended claim 18 to depend from claim 15 which provides antecedent basis for the motive means and the base.

The Examiner has rejected claims 1, 2, 6, & 7 under 35 U.S.C. 102(b) as being anticipated by Deak (5,794,606).

Claim 1 as amended claims a loader apparatus for a paintball marker, wherein the loader apparatus includes a cartridge that is removably connectable with respect to the marker by means of a quick replacement connector. This permits a cartridge that is, for example, empty, to be replaced quickly with another cartridge during game play.

Deak teaches a paintball loader which is friction fit into the feed neck of the paintball marker. The connection is described as requiring a relatively tight fit, see column 5, lines 56-61, wherein Deak states that the diameters of the outlet end of the loader and the infeed tube of the marker are sized 'so as to provide a secure fit between the feed tube 5 and the infeed tube 130'. This is virtually the only description of the connection between the loader and the marker. The applicant submits that, in general, specifying that a friction fit exists between a loader and a marker does not provide enough information to determine the nature of the connection. There is a broad range of tightness of fit that is possible for the friction fit between the loader and the marker of Deak. For example, if the fit were relatively tight, it would provide greater assurance that the loader would remain attached to the marker during game play, however, the loader would not be easily or quickly removable from the marker. The applicant submits that Deak does not teach or suggest anywhere the nature of the connection, except for the above-noted statement. Accordingly, one cannot infer that the connection taught by Deak makes the loader quickly removable from the marker, for quick replacement with another loader during game play.

In light of the above, the applicant submits that claim 1 is neither anticipated, nor obvious in view of the teachings of Deak. Claims 2, 6 and 7 depend from claim 1. The

applicant submits that they are patentable over Deak at least by their dependency on claim 1.

The Examiner has rejected claims 13 & 14 under 35 U.S.C. 102(e) as being anticipated by Perrone (6,415,781).

Claim 13 as amended claims a loader apparatus for a paintball marker including a cartridge and a pressurizing member. The cartridge is removably connectable with respect to said paintball marker by means of a quick replacement connector. The cartridge includes a pressurizing member for maintaining a force on a plurality of paintballs to urge them towards the paintball outlet.

Perrone teaches a cartridge with an auger-like member that is rotatably mounted to the cartridge to clear a jam or to move one or more paintballs located at or near the paintball outlet. Perrone further teaches at column 4, lines 19-22 that the cartridge has a feed tube 32 that fits within an 'elbow 22' on the marker, and is detachably connected thereto. As explained above with respect to the teachings of Deak, the simple statement made by Perrone that the cartridge is removable from the marker does not in itself teach anything regarding the level of ease with which the cartridge can be removed. Since this is the only discussion by Perrone of the nature of the connection, the applicant submits that Perrone does not teach that the cartridge is removable by means of a quick replacement connector, as claimed in claim 13.

In light of the above, the applicant submits that claim 13 is neither anticipated, nor obvious in view of Perrone. Claim 14 depends from claim 13. The applicant submits that claim 14 is patentable over Perrone at least by its dependency on claim 13.

Furthermore, claim 14 adds the feature of a base, wherein the cartridge is removably attachable to the base. The base provides several advantages. For example, it can permit the loader to be configured more freely in terms of the loader's mounting structure, so that the loader is not forced to mount to whatever structure is available on

the marker, such as the inlet tube. The applicant submits that the loader of Perrone attaches directly to the marker, and that Perrone does not teach or suggest the use of a base for receiving the loader. Accordingly, even without relying on its dependency on claim 13, the applicant submits that claim 14 is neither anticipated nor obvious in view of Perrone.

In the Office Action, the Examiner has stated that claims 3-5, 8-12, 15-17 & 21-32 are not rejected over the prior art. The applicant appreciates the Examiner's comment, and has added new claims 33-36, which correspond to claims 3, 5, 15 and 17 respectively, rewritten in independent form. Accordingly, the applicant submits that claims 33-36 are patentable over the prior art.

The Examiner further stated that the prior art does not disclose a loader including a cartridge connectable to a base, wherein there is a flow assistor in the cartridge and a motive means for driving the flow assistor mounted on the marker or on the base, which only engages the flow assistor when the cartridge is mounted to the base. The applicant submits that several claims that the Examiner indicated were not rejected over the prior art do not include all these limitations. Moreover, the applicant submits that several of these limitations are not required for patentability. For example, claim 21 claims a flow assistor for inhibiting jams in a flow of paintballs towards the paintball inlet of the marker. The specific position of the flow assistor itself is not specified in the claim and is not important. The claim further includes a motive means that is connectable to the flow assistor, and wherein the motive means is separate from the cartridge. The applicant submits that the prior art fails to teach a loader including a cartridge, a base for releasably receiving the cartridge and for connecting the cartridge to a paintball inlet of a marker, a driven flow assistor and a motive means for driving the flow assistor, wherein the motive means is mounted to one of the base and the marker so that it is separate from the cartridge.

As another example, claim 17 was not rejected over the prior art, however claim 17 does not include a flow assistor at all. Claim 17 depends from claim 13, and thus

includes a cartridge that is removably connectable with respect to the paintball marker, a quick replacement connector for connecting the cartridge with respect to the marker, and a pressurizing member that is adapted to contact a plurality of paintballs simultaneously, wherein the pressurizing member includes a spring, which is adapted to act on a plurality of paintballs simultaneously. A flow assistor is not specified as being included in the loader apparatus of claim 17, however the applicant submits that this claim is nonetheless patentable over the prior art.

The applicant has made a minor amendment to claim 15, which also appears in claim 35 (which corresponds to claim 15 in independent form). The claim has been amended to state that the motive means is operatively connectable to the flow assistor, instead of being operatively connected to the flow assistor.

In view of the foregoing, it is respectfully submitted that the application is now in condition for allowance.

Respectfully submitted,

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